



Legal Affairs

A6N-D48
13600 EDS Drive
Herndon, Virginia 20171

Ms. Ginger Moore
Procurement Division
Department of General Services

09/08/2006

VIA EMAIL: ginger.moore@dgs.ca.gov

RE: Management Memo on Uniform Standards for Information Technology
Procurement

Dear Ms. Moore:

Thank you for the opportunity to comment on this Management Memo. EDS strongly concurs with the written comments submitted by Ed Howard of AeA regarding the definition of "progress payments" (addressed in Section G of his written comments). We also concur with those comments submitted in writing by ITAA.

There are significant restrictions on IT companies' ability to obtain performance bonds, including limited bonding capital; therefore requiring 50% bonds in every procurement with milestones will severely limit competition. By defining "progress payments" as money paid in advance" or "government financing," DGS retains the discretion to require bonds where it feels appropriate, while improving the procurement process by increasing competition.

We feel that the nature and language of the statute make it clear that the term "progress payments" is intended to mean "money paid by the government to the contractor in advance of work performed," for the following reasons: 1) the statute requires extra protections when this type of payment scheme is used. Extra protections would not be required for milestone or deliverable-based payments; this type of payment mechanism is intended as a form of protection by itself, so would not need the added protection of a bond; and 2) this is clearly based on a statute related to construction – in construction, advanced payments ("progress payments") and bonds are common, and this type of payment structure does require extra protections that a bond would afford.

Again, we hope you will reconsider the definition of "progress payments" as described here and in Ed Howard's written comments.

Please feel free to contact me with any questions at rebecca.breitbard@eds.com or 916-861-4501.

Thank you,

Rebecca Breitbard